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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/667,214

09/19/2003

Wanda Richard

B-32686A/USN

7030

1095

7590

10/19/2006

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER, NJ 07936-1080

EXAMINER

YEBASSA, DESTA LETTA

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/667,214	RICHARD ET AL.	
	Examiner	Art Unit	
	Desta L. Yebassa	1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/19/2003</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Acknowledgment is made for the information disclosure statement (IDS) filed on 09/19/2003. Receipt is also acknowledged for the oath and declaration filed on 12/17/2003.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-2, 5-10 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eriksen et al. (U.S. patent No. 6,043,202) in view of Chaussee et al. (U.S. Patent No. 4,478,853).

Eriksen et al. disclose a shampoo composition, oil composition, and method for treating cradle cap (seborrhea dermatitis) in infants and small children and a kit that

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include shampoo, oil, comb, sponge, brush and optional separate instruction for reducing or eliminating the condition of cradle cap (abstract and column 10, line 35, Eriksson's claim). Eriksen et al. also disclose the components of shampoo composition (column 1 through 2, table 1 and column 5 through 6, table 3-4A), the components of oil composition (column 2, table 2 and column 7, table 6) and method for treating cradle cap including the steps (column 2, lines 40-65 and column 3, lines 5-30). Furthermore, Eriksen et al. demonstrated by working example preparation of shampoo composition and oil composition (column 7 through 8 examples 1 and 2). Treatment of cradle cap (column 9, lines 25-40).

Eriksen et al. does not specifically teach moisturizing agents and the viscosity of the instant claims. However the secondary reference, Chaussee et al. disclose this limitation.

Chaussee et al. disclose water soluble base composition which imparts enhanced emolliency or moisturizing properties and provides extended protection against formation of dry, scaling skin or inhibiting scaling, flaking, drying and other causes of skin irritation (column 2, lines 15-25 and column 3, lines 10-15). Typical examples of moisturizing agents include emollients such as polyhydric alcoholic humectant and a polyether derivative. Examples of polyhydric alcohols include polyethylene glycol, polypropylene glycol, sorbitol, hydroxypropyl sorbitol and the like (column 3, lines 20-30). Chaussee et al. also disclose other emollients include mineral oil, petrolatum, butter, fatty acids, fatty alcohols and the like column 5, lines 65 and

column 6, lines 5-65) and the viscosity of the composition preferably from about 2000 to about 20,000 cps ((column 9, lines 25).

Therefore, It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the composition of Chaussee et al. to the composition of Eriksen et al. The motivation to do so comes from Chaussee, who teaches moisturizer which provides increased emolliency that reduce the tendency of skin to scale, redden, and flake and promotes removal of scaly layers. Chaussee et al. does not teach the amount of viscosity as instant claims. However, It would have been obvious to a person of ordinary skill in the art at the time invention was made to vary the amount of viscosity to optimize the effects desired. One of ordinary skill in the art at the time the invention was made would have immediately envisioned that the specificity of the amount of viscosity was not critical to the composition and would have found obvious at the time the invention was made to vary the amount of viscosity depending upon the specific type of mineral oil selected and desired effects. Thus it would be seem reasonable and practical to combine the teachings of Eriksen et al and Chaussee et al to make a composition comprising shampoo composition, oil composition, moisturizer, kit that include shampoo, oil, comb and method for treating cradle cap in infants and small children, following the steps of Eriksen and Chaussee with a reasonable expectation of success.

Claims 3-4 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eriksen et al. (U.S. patent No. 6,043,202) in view of DesLauriers et al. (U.S. Patent No. 5,221,534).

Eriksen et al has been discussed above.

Eriksen et al. does not specifically teach mineral oil and gelled mineral oil of the instant claims. However the secondary reference, DesLauriers et al disclose this limitation.

DesLauriers et al cosmetically useful health and beauty aid mineral oil and gelled mineral oil composition which comprises a hydrocarbon oil and a blend of polymers selected from the group of diblock copolymer and triblock polymers (abstract and column 2, lines 10-15 and 35-45, column 6 through 7). DesLauriers et al also demonstrated by working examples the preparation of mineral oil and gelled mineral oil and properties of resulting products see (column 8-11, example 1 through examples 5).

Therefore, It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the composition of DesLauriers et al to the composition of Eriksen et al. The motivation to do so comes from DesLauriers et al; who teaches mineral oil and gelled mineral oil that comprises a hydrocarbon oil and a blend of polymers selected from the group of diblock co-polymer and triblock co-polymers as claimed in the instant claims for the same purpose and as it was defined in the specification i.e. "gelled mineral oils are blends of a hydrocarbon mineral oil with diblock co-polymers and /or tri-block co-polymers" (specification page 4, lines 5-10). Thus it would be seem reasonable and practical to combine the teachings of Eriksen et al and DesLauriers et al to make a composition comprising shampoo composition and oil composition and method for treating cradle cap in infants and small children,

following the steps of Eriksen and DesLauriers with a reasonable expectation of success.


Telephonic Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Desta L. Yebassa whose telephone number is 571-272-8511. The examiner can normally be reached on Monday to Friday 8.00 am –6.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Woodward Michael can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Desta L. Yebassa, Ph.D.
Patent Examiner
Art Unit 1615


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SUPERVISORY PATENT EXAMINER
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